



July 19, 2000

Mr. James L. Hall
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342

OR2000-2717

Dear Mr. Hall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 136659.

The Texas Department of Criminal Justice (the "department") received a written request for the "[t]urnout rosters for 2nd shift ad-seg for the six weeks prior to" the date of the request. You contend that the requested information is excepted from disclosure under section 552.108 of the Government Code.

You stated in your request for a decision that the records request was "received by General Counsel on April 25, 2000." At that time, we noted that the request was addressed to the "Wynne Unit Human Resources." If a governmental body intends to withhold information requested under the Public Information Act, the governmental body is required to request a decision from this office within ten business days of receipt of the request. Gov't Code § 552.301(b). Consequently, regardless of the date that the General Counsel's Office received the request, the ten-day deadline would be calculated in this instance from the date that any department of the TDCJ first received the request.

Because this office felt that it needed additional information to determine whether the department timely requested an open records decision, this office requested by correspondence sent to you by facsimile on June 9, 2000 that you provide to us the date on which the request was first received by the "Wynne Unit Human Resources" or any other department of TDCJ. *See* Gov't Code § 552.303. The June 9th correspondence informed you that the department had seven calendar days to submit to this office the additional information requested. Gov't Code § 552.303(d). Although you responded to our correspondence, you did not do so in a timely manner. *See* Gov't Code § 552.303(e) (failure to timely provide this office the information requested under section 552.303 results in the

presumption that the information responsive to the request is public information and must be released unless there exists a compelling reason to withhold the information).

After considering your arguments and reviewing the information at issue, we conclude that you have not demonstrated a compelling reason under section 552.303(e) for the information at issue to be withheld from the public. *See* Open Records Decision Nos. 630 at 3 (1994) (discussing compelling reasons sufficient to overcome presumption of openness under section 552.302), 150 (1977) (presumption of openness overcome by showing that information is made confidential by another source of law or that release of information would affect third party's interests). Accordingly, we conclude that the department must release the requested information in its entirety.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

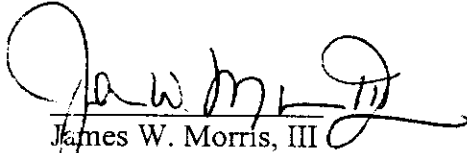
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'James W. Morris, III', written over a horizontal line.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/RWP/ljp

Ref: ID# 136659

Encl. Submitted documents

cc: CO III T. Dominik
Wynne Unit
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342
(w/o enclosures)